

1989 No. 2363

**LOCAL GOVERNMENT, ENGLAND AND WALES**

**FINANCE**

**The Collection Fund (Wales) Regulations 1989**

<i>Made</i> - - - -	<i>14th December 1989</i>
<i>Laid before Parliament</i>	<i>15th December 1989</i>
<i>Coming into force</i>	<i>18th December 1989</i>

The Secretary of State for Wales, in exercise of the powers conferred on him by sections 89(5), 98(3), 99(1) to (3), 140(4), 143(1) and 146(6) of the Local Government Finance Act 1988(a), and of all other powers enabling him in that behalf, hereby makes the following Regulations—

**Citation, commencement and application**

1. These Regulations may be cited as the Collection Fund (Wales) Regulations 1989 and shall come into force on 18th December 1989. They apply to Wales only.

**Interpretation**

2. In these Regulations—

“the Act” means the Local Government Finance Act 1988;

“charging authority” means a Welsh charging authority;

“the county precepting authority”, in relation to a charging authority, means the county council which has power to issue a precept to that charging authority;

“liabilities” means—

(a) the liability of a charging authority to pay anything from its collection fund in respect of any precept issued under the Act, after taking into account any amount credited against that liability under section 71(6) of the Act, and

(b) the liability of such an authority to transfer anything from its collection fund under section 97 of the Act;

“relevant community council”, in relation to a charging authority, means a community council which has power to issue a precept to that charging authority;

“relevant precepting authority”, in relation to a charging authority, means the county precepting authority, and each relevant community council;

“relevant principal authority”, in relation to a charging authority, means the county precepting authority and that charging authority;

“schedule of instalments” means a schedule prepared by a charging authority with respect to the times for and the number and amounts of payments or transfers from its collection fund in respect of its liabilities.

**Discharge of liabilities**

3.—(1) A charging authority shall in accordance with its schedule of instalments in relation to a financial year pay from its collection fund to its relevant precepting authorities, and transfer from its collection fund to its general fund, such amount as will meet its liabilities for that year.

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(a) 1988 c.41; sections 89(5), 98(3) and 99(2) were amended by the Local Government and Housing Act 1989 (c.42), Schedule 5, paragraphs 62, 64 and 65.

(2) The requirement in paragraph (1) to make payments or transfers in accordance with a schedule of instalments does not apply where—

- (a) a substitute precept or calculation has been issued or made in relation to a financial year, and
- (b) that substitute precept or calculation has been issued or made on or after the day of the final instalment to be paid or transferred in accordance with the schedule of instalments in that financial year.

(3) An amount to be paid or transferred by a charging authority in respect of the amount of its liabilities for a financial year shall be paid or transferred—

- (a) if the precept or calculation in respect of which that amount is being paid or transferred was issued or made before the end of that financial year, in that financial year,
- (b) in any other case, as soon as is reasonably practicable after the issue of that precept or making of that calculation.

(4) An amount paid or transferred by a charging authority in respect of the amount of its liabilities for a financial year, whether or not paid or transferred in accordance with a schedule of instalments, shall be treated as discharging those liabilities to the extent of the payment or transfer.

(5) For the purposes of paragraph (4), an amount paid or transferred which—

- (a) was treated in accordance with that paragraph as discharging a charging authority's liabilities, but which
- (b) was subsequently repaid or credited by the relevant precepting authority concerned under section 71(6) of the Act, or transferred under regulation 9,

shall, to the extent of the amount so repaid or credited, or transferred under regulation 9, cease to be treated as discharging those liabilities.

(6) The references in paragraphs (1) and (2) to an authority's schedule of instalments are references to the schedule of instalments determined by the authority in accordance with regulation 4, or where the authority has amended its schedule in accordance with regulation 6, to its schedule of instalments as it currently has effect.

#### **Schedules of instalments**

4.—(1) A charging authority shall determine a schedule of instalments in relation to each financial year beginning in or after 1990.

(2) A charging authority shall determine a schedule of instalments under paragraph (1) before 31st January in the financial year preceding that to which the schedule will relate.

(3) A charging authority shall determine a schedule of instalments in accordance with the rules prescribed in Schedule 1 to these Regulations.

5.—(1) A charging authority shall, on or before 31st December in the financial year preceding that to which the schedule of instalments will relate, inform each relevant precepting authority of the schedule of instalments which it proposes to determine under regulation 4.

(2) A charging authority shall, on or before 31st January in the financial year preceding that to which the schedule of instalments will relate, inform each relevant precepting authority of the schedule of instalments which it has determined under regulation 4.

(3) A charging authority shall not determine a schedule of instalments under regulation 4 within 21 days of informing each relevant precepting authority under paragraph (1) of the schedule of instalments which it proposes to determine.

#### **Amendment of schedules of instalments for principal authorities**

6.—(1) A charging authority may, with the agreement of the county precepting authority, from time to time amend a schedule of instalments insofar as it relates to future payments, and any such amendment shall have effect from such time as is specified in the amendment.

(2) The power under paragraph (1) to amend a schedule of instalments does not extend to the amendment of any provision insofar as it relates to relevant community councils.

(3) An amended schedule of instalments shall satisfy the requirements of paragraphs 1 to 5 of Schedule 1 to these Regulations.

#### **Interest on amount of instalments**

7.—(1) A charging authority shall pay interest from its collection fund to a relevant precepting authority in respect of any amount which—

- (a) has become payable to that precepting authority in accordance with a schedule of instalments, but
- (b) has not been so paid.

(2) Interest shall be payable under paragraph (1) on the amount outstanding for every day of the period beginning with the day on which the amount was due to be paid and ending with the day before the day on which it is paid.

8.—(1) Interest payable under regulation 7 in respect of an amount outstanding shall be calculated at the rate which is 2 per cent above the highest base rate quoted by members of the Committee of London and Scottish Bankers at any time in the period for which that interest is payable.

(2) The interest shall be paid at the same time as the amount outstanding is paid.

#### **Calculations under section 95(4) of the Act**

9. Where—

- (a) a charging authority has made a substitute calculation under section 95(4) of the Act(a) in relation to a financial year, and
- (b) an amount transferred under section 97 of the Act from that authority's collection fund to its general fund in relation to that financial year would not have been so transferred had the result of the immediately preceding calculation in relation to that year been the same as that of the substitute calculation,

that authority shall, as soon as is reasonably practicable after making that substitute calculation, transfer from its general fund to its collection fund the amount which would not have been so transferred.

#### **Holdings and investments**

10.—(1) Any sum paid into a charging authority's collection fund which is not immediately required for the purpose of making payments or transfers from that fund shall be—

- (a) invested in a prescribed investment;
- (b) held in cash; or
- (c) transferred to the charging authority's general fund.

(2) Any sum transferred under paragraph (1) from an authority's collection fund to its general fund shall be—

- (a) invested in a prescribed investment;
- (b) held in cash; or
- (c) used for the discharge of the authority's functions.

(3) A prescribed investment is an investment prescribed in Schedule 2 to these Regulations.

11.—(1) Where a sum has been transferred to its general fund under regulation 10(1), a charging authority shall—

- (a) immediately retransfer the sum if such a retransfer is required to enable the authority to meet payments or transfers from its collection fund, or
- (b) otherwise retransfer the sum as and when it thinks fit.

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(a) Section 95 was amended by the Local Government and Housing Act 1989 (c.42), Schedule 5, paragraph 63.

(2) Where a sum is retransferred under paragraph (1) there shall be transferred with it an additional amount representing interest on such sum calculated in accordance with regulation 12.

12. Interest on the sum retransferred shall be calculated for the purposes of regulation 11(2), for the period beginning with the day of its transfer from the collection fund under regulation 10 and ending with the day before the day on which the retransfer is made under regulation 11, at the 7 day London Interbank Offer Rate having effect immediately before the end of the day on which the transfer from the collection fund was made.

## SCHEDULE 1

Regulations 4 and 6

### RULES FOR DETERMINATION OF SCHEDULES OF INSTALMENTS

#### PART I

##### PRINCIPAL AUTHORITIES

1.—(1) The amount of a charging authority's liability to each relevant principal authority for a financial year shall be discharged by payment or transfer from the charging authority's collection fund to be made in not less than 12 instalments.

(2) The instalments shall be of the same number and shall become payable and transferable on the same dates in that year for each such liability, as determined by the charging authority in accordance with the rules prescribed in paragraphs 2 and 3.

(3) The schedule of instalments shall be determined so as to specify—

- (a) the number of instalments,
- (b) the amount which each instalment will be as a proportion of the amount of each such liability, and
- (c) the date on which each instalment shall become due,

in accordance with the rules prescribed in this Part.

2. Where the charging authority determines that 12 instalments are to be paid or transferred in discharge of each liability referred to in paragraph 1(1), the authority shall determine the schedule of instalments so as to require either—

- (a) that each instalment shall become due on the last working day of a different month in the financial year, or
- (b) that each instalment shall become due on the same working day of a different month in that year.

3. Where the charging authority determines that more than 12 instalments are to be paid or transferred in discharge of each liability referred to in paragraph 1(1), the authority shall determine the schedule of instalments so as to require that—

- (a) the authority shall pay and transfer the amount of each first instalment in the financial year within 4 weeks of the start of that year and the amount of each last instalment within 4 weeks of the end of that year, and
- (b) there shall be an equal number of working days between each instalment in that year.

4.—(1) Subject to paragraph 5, the schedule of instalments shall be determined so as to require each instalment to represent the amount of the charging authority's undischarged liability to a relevant principal authority, divided by the number of instalments remaining to be paid or transferred immediately before the payment or transfer of the instalment in question.

(2) The amount of the charging authority's undischarged liability to a relevant principal authority is the amount of its liability to that principal authority for the financial year in which the instalment falls to be paid or transferred, less the amount, if any, by which that liability is treated as discharged under regulation 3.

5. The schedule of instalments shall be determined so as to require the amount of each instalment which is to be paid or transferred to a relevant principal authority, other than the last instalment in a financial year, to be a number of whole pounds.

## PART II

### COMMUNITY COUNCILS

6.—(1) The amount of a charging authority's liability to each relevant community council for a financial year shall be discharged by payment from the authority's collection fund to be made in not more than 3 instalments, of the same number for each such liability, as determined by the authority, and payable on the same dates for each such liability, as determined by the authority in accordance with the rules prescribed in paragraphs 7 and 8.

(2) The schedule of instalments shall be determined so as to specify—

- (a) the number of instalments,
- (b) the amount which each instalment will be as a proportion of the amount of each such liability, and
- (c) the date in that year on which each instalment shall become payable,

in accordance with the rules prescribed in this Part.

7.—(1) At least one third of the amount of a charging authority's liability to a relevant community council for a financial year shall become payable to the council concerned on or before—

- (a) the last working day of April in that year, or
- (b) the last working day of the month following the month in which a precept for that year was issued by that council,

whichever is the later.

(2) At least two thirds of that amount shall become payable to that council on or before—

- (a) the last working day of August in that year, or
- (b) the last working day of the fifth month following the month in which a precept for that year was issued by that council,

whichever is the later.

(3) The remainder of that amount shall become payable to that council on or before—

- (a) the last working day of December in that year, or
- (b) the last working day of the ninth month following the month in which a precept for that year was issued by that council,

whichever is the later.

(4) References in this paragraph to a precept for a year are references to the last such precept issued by that council.

(5) Sub-paragraphs (1) to (4) shall not apply to the discharge of a charging authority's liabilities to its relevant community councils for a financial year in relation to which it determines a schedule of instalments in accordance with paragraph 8.

8.—(1) Instead of determining a schedule of instalments in accordance with paragraph 7(1) to (4), the charging authority may determine that schedule in accordance with the provisions of this paragraph.

(2) The amount of a charging authority's liability to a relevant community council shall become payable on whichever is the later of—

- (a) a date, specified in the schedule of instalments, which is on or before the last working day of September in the financial year, or
- (b) the last working day of the sixth month following the month in which a precept for that year is issued by that council.

## PART III

### INTERPRETATION

9.—(1) In Part I references to a date or day when an instalment shall become due shall be taken to be references to the date or day (as the case may be) when that instalment shall become payable or transferable (as the case may be).

(2) In this Schedule "working day" means any day other than a Saturday, Sunday, or bank holiday.

(3) For the purposes of paragraph 2, a working day in one month and a working day in another month shall be treated (in relation to each other) as the same working day of a different month if, and only if, both such working days can be identified—

- (a) by the same name of a day in a working week (whether Monday, Tuesday, Wednesday, Thursday or Friday), and also
- (b) by reference to the same position in a month relative to other days of that name (whether the first, second, third or fourth day of that name in a month).

## SCHEDULE 2

Regulation 10

### PRESCRIBED INVESTMENTS

The investments prescribed in this Schedule are—

- (a) a deposit with the Bank of England or an institution authorised under Part I of the Banking Act 1987(a);
- (b) a deposit with a building society incorporated (or deemed to be incorporated) under the Building Societies Act 1986(b);
- (c) if the deposit is repayable at not more than 7 days notice, a deposit with a body (other than the charging authority) which is for the time being specified in paragraph 12 or 13 of Schedule 2 to the Banking Act 1987.

14th December 1989

*Peter Walker*  
Secretary of State for Wales

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(a) 1987 c.22.

(b) 1986 c.53.

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations apply only to Wales.

Under Part VI of the Local Government Finance Act 1988 ("the Act") charging authorities are required to maintain collection funds into which must be paid receipts from community charges. From its collection fund a charging authority must meet precepts from other authorities and its own demand, calculated under section 95 of the Act, in respect of its estimated expenses.

These Regulations, which are made under Part VI of the Act, make provision about the discharge by charging authorities of their liabilities in respect of precepts and in respect of transfers under section 97 of the Act to meet their estimated expenses.

Regulation 3 makes provision for a charging authority to make certain payments and transfers from its collection fund in accordance with a schedule of instalments and for the circumstances in which certain liabilities of the authority are to be treated as discharged.

Regulations 4 and 5, together with Schedule 1, provide that a charging authority shall determine a schedule of instalments, and make provision as to the rules in accordance with which it is to do so. Regulation 6 provides for schedules of instalments to be amended. Regulations 7 and 8 make provision as to the payment of interest where amounts payable in accordance with a schedule of instalments are not paid.

Regulations 9 to 12, together with Schedule 2, make provision as to certain transfers, as to the holding, investment and use of sums paid into a charging authority's collection fund, and as to the payment into the fund of amounts representing interest on those sums.